UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA	:	
- v. –	:	S3 15 Cr. 769 (AJN)
ANTHONY R. MURGIO, MICHAEL J. MURGIO, YURI LEBEDEV, and TREVON GROSS,	:	
Defendants.	:	

JOINT PROPOSED EXAMINATION OF PROSPECTIVE JURORS

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA - v. – ANTHONY R. MURGIO, MICHAEL J. MURGIO, YURI LEBEDEV, and TREVON GROSS, Defendants.	:	S3 15 Cr. 769 (AJN)

JOINT PROPOSED EXAMINATION OF PROSPECTIVE JURORS

The Government and the Defendants jointly request, pursuant to Rule 24(a) of the Federal Rules of Criminal Procedure, that the Court include the following questions in its examination of prospective jurors. The parties respectfully request that the Court pursue more detailed questioning if a particular juror's answer reveals that further inquiry is appropriate and, in such an instance, to conclude with an inquiry into whether the particular fact or circumstance would influence the juror in favor of or against either the Government or a Defendant, or otherwise affect the juror's ability to serve as a fair and impartial juror in this case.

INTRODUCTION

This is a criminal case. The Defendants on trial, Anthony Murgio, Michael Murgio, Yuri Lebedev, and Trevon Gross, have been charged with the commission of federal crimes in an Indictment filed by a grand jury sitting in this District.

The Indictment is not evidence. It simply contains the charges that the Government is required to prove to the satisfaction of the jury beyond a reasonable doubt. I will summarize the charges in this case in order to determine whether there is anything about the nature of this case that may make it difficult or inappropriate for any of you to serve on the jury.

CASE DESCRIPTION

This case concerns a Florida-based entity known as Coin.mx that allegedly dealt in bitcoins. According to the Indictment, bitcoins are an anonymous, decentralized form of electronic currency that exist entirely on the Internet and not in any physical form. Bitcoins are not illegal, and thus, to buy, sell, hold, or transfer them is not illegal in and of itself. The Indictment alleges that Coin.mx was a website that allowed its customers, including customers in the Southern District of New York, to convert United States currency into bitcoins, and vice versa, and to transmit bitcoins and currency to other accounts.

Anthony Murgio is charged with several crimes in connection with the operation of Coin.mx. First, he is charged with operating Coin.mx as an unlicensed money transmitting business. Second, he is charged with wire fraud based upon alleged misrepresentations that he made to banks and other entities in connection with the operation of Coin.mx. Third, he is charged with money laundering in connection with Coin.mx's operations. Fourth, he is charged with conspiring, or agreeing, with others to commit each of these alleged crimes. Michael Murgio, Yuri Lebedev, and Trevon Gross are not charged with any of these crimes.

Anthony Murgio, Michael Murgio, and Yuri Lebedev are charged with participating in a conspiracy to make, and with making, corrupt payments to Trevon Gross, an officer of a federal credit union in New Jersey named HOPE Federal Credit Union, which Anthony Murgio tried to acquire control of in furtherance of Coin.mx's operations.

Trevon Gross is charged with accepting corrupt payments with the intent to be influenced in connection with the business of HOPE Federal Credit Union.

The Defendants [have pleaded not guilty to/deny] all the charges in the Indictment. [*The Government proposes that the phrase "have pleaded not guilty to" be used in this sentence. The Defendants object and propose that the word "deny" be used instead.*]

NATURE OF CHARGES

1. Do any of you have any personal knowledge of the charges in the Indictment in this case? Have any of you read or heard anything about this case? If so, is there anything you have read or heard that has caused you to feel that you cannot decide the issues of this case fairly and impartially?

2. As I just explained, the Indictment alleges crimes related to the operation of an online Bitcoin exchange. Have you ever heard of Bitcoin? Have any of you ever purchased or used bitcoins? Have any of you ever purchased or used anything similar, like Ether or Litecoin? If so, is there anything about your experience with Bitcoin or those others that might prevent you from being fair and impartial in this case?

3. In this case you are expected to hear evidence about Florida state licensing laws and federal registration requirements governing certain businesses involved in transferring or transmitting money or funds to other individuals or locations for a fee. These businesses are referred to as money transmitters. [*The Defendants object to the previous language in blue.*] Do any of you have an opinion about licensing, registration, and other laws and regulations that govern the financial system, including money transmitting businesses, credit unions, and banks, that might prevent you from being fair and impartial in this case?

4. In this case you are expected to hear evidence that Coin.mx processed Bitcoin transactions involving victims of ransomware schemes. Ransomware is a type of malicious software, or malware, that restricts access to an infected computer system and demands that the

user pay a ransom, sometimes in bitcoins, to the malware operators in order to remove the restriction. The Indictment alleges that Coin.mx facilitated victims' purchases of bitcoins so that the victims could pay ransoms to hackers to regain control of their computers. Have you, a family member, or a close friend, ever been a victim of a ransomware scheme or another crime involving Bitcoin? If so, would that experience make it difficult for you to be fair and impartial in this case?

5. In this case you are expected to hear evidence that involves countries other than the United States, including Israel and Russia. Would such evidence affect your ability to be fair and impartial in this case? Have you ever traveled outside the country? If so, is there anything about that experience that would affect your ability to be fair and impartial in this case?

6. In this case you are expected to hear evidence about written contracts and agreements. Does anyone believe that when you read a contract or agreement that there is only one way for it to be interpreted? [*The Government objects to this paragraph.*]

7. Have any of you ever started a new company or organization or engaged in other entrepreneurial activities? If so, is there anything about that experience that would prevent you from being fair and impartial in this case?

8. In this case you are expected to hear evidence about alleged breaches of fiduciary duties by board members of an organization. [*The Defendants object to the previous sentence.*] Have any of you ever served as a board member of any type of company or organization? Would anything about that experience affect your ability to be fair and impartial in this case?

9. In this case, one of the Defendants is a pastor of a church. Do you have any views about religion or religious institutions that would affect your ability to be fair and impartial in this case? Do you have any views about clergy members that would affect your ability to be fair and impartial in this case?

10. This case involves alleged corrupt payments to an officer of a credit union. [*The Defendants object to the previous sentence.*] Have any of you ever been a member of a credit union? Would anything about that experience affect your ability to be fair and impartial in this case?

11. Do any of you have any particular feelings or policy views about the types of crimes at issue in this trial – that is, conspiracy, operating an unlicensed money transmitting business, bank bribery, wire fraud, and money laundering – that would cause you to be unable to judge this case fairly and impartially, or unable to reach your verdict based solely on the evidence and the law as I give it to you? [*The Defendants object to this paragraph.*]

12. Do you have an opinion that conspiracy should not be a crime? Do you have an opinion that operating an unlicensed money transmitting business, bank bribery, wire fraud, or money laundering should not be crimes? [*The Defendants object to this paragraph.*]

KNOWLEDGE OF TRIAL PARTICIPANTS

13. This case is being prosecuted by the United States Attorney's Office for the Southern District of New York. The United States Attorney for this District is Preet Bharara. Do you or does any relative or friend know or have any connection with Preet Bharara or anyone associated with his office?

14. Do you or does any relative or close friend know or have any connection with any of the following prosecutors or other individuals from the U.S. Attorney's Office who will be handling this trial?

a. Eun Young Choi

b. Daniel Noble

c. Won Shin

d. Michael Chang-Frieden (paralegal specialist)

15. Do you or does any relative or close friend know or have any connection to the following law enforcement officers or their relatives or friends?

a. Joel DeCapua, FBI (case agent)

b. Patrick Hoffman, FBI

c. Michael DeNicola, FBI

d. Jonathan Luca, FBI

e. Tate Jarrow, Secret Service

f. Christopher Rasor, Secret Service

16. Do you, any relative, or close friend know or have any connection to the Defendants or their relatives or friends?

a. Anthony Murgio

b. Michael Murgio

c. Yuri Lebedev

d. Trevon Gross

17. Do you or does any relative or close friend know or have any connection with any of the following defense attorneys or their law firms?

a. For Anthony Murgio: Brian Klein of Baker Marquart LLP and Robert Soloway of Rothman, Schneider, Soloway & Stern, LLP

b. For Michael Murgio: Stuart Kaplan and Joseph Sconzo of Kaplan Sconzo & Parker, P.A.

c. For Yuri Lebedev: Eric Creizman, Melissa Madrigal, and Jonathan Michaelson (paralegal specialist) of Creizman PLLC

d. For Trevon Gross: Henry Klingeman or Kristen Santillo of Krovatin Klingeman LLC

18. If you have seen, heard, or read about the U.S. Attorney, any of the prosecutors, lawyers, law firms, law enforcement officers, or the Defendants, is there anything about what you learned that would prevent you from rendering a fair and impartial verdict in this case?

19. During the trial, you may hear testimony from or about the following individuals. Please tell me if you have any personal knowledge about these individuals.

a. [Names of individuals to be provided in advance of trial.]

20. During the trial, you may hear testimony about the following entities and locations. Please tell me if you have any personal knowledge about these entities and addresses:

a. [Names of entities and locations to be provided in advance of trial.]

ABILITY TO BE FAIR AND IMPARTIAL

21. Do you or does a relative or close friend work for or with any federal, state or local law enforcement agency, such as the Federal Bureau of Investigation, the United States Secret Service, the District Attorney's Office, or the New York City Police Department?

22. Have any of you, or any family member of close friend, ever been employed by or had any dealings with the Department of Treasury Financial Crimes Enforcement Network (FinCEN), the Florida Office of Financial Regulation, or any other agency that deals with the regulation of money transmitting businesses?

23. Have any of you, or any family member of close friend, ever been employed by or had any dealings with the National Credit Union Administration?

24. Do you or does a relative or close friend work for a criminal defense lawyer or private investigator?

25. Are you or do you have any close relatives or friends who are judges, law clerks, court attendants, court clerks, other types of court personnel, probation officers, or persons connected with any correctional institution, jail or prison?

26. Have you or has a family member ever been a witness to, or the victim of, a crime?

27. Have you ever appeared or testified as a witness in any investigation or legal proceeding?

28. Have you ever been involved, or do you expect to become involved, in any legal action or dispute with the United States or any agency, officer, or employee of the United States, or have you had any financial interest in such a dispute?

29. Have you or a family member ever been accused of, charged with or convicted of any crime, or been the subject of a criminal investigation or subpoena? If yes, please explain the nature of the charges, approximate date, which Government agency brought charges, and the outcome.

30. Have you - either through any experience that you have had, or anything that you have seen or read – developed any bias or prejudice, either for or against, the FBI or the Secret Service? Any other federal, state, or local law enforcement agency?

31. Have you – either through any experience that you have had, or anything that you have seen or read – developed any bias or prejudice, either for or against, a criminal defense lawyer or a private investigator?

32. Have you, a relative, or a close friend, ever worked for a money transmitting business like Western Union or Moneygram? [*The Government proposes the question as formulated in blue. The Defendants object to this question unless the language in red is appended at the end. The Government objects to appending the proposed language in red.*]

33. Have you, a relative, or a close friend, ever worked for a Bitcoin exchange or an exchange for something similar, like Ether or Litecoin?

34. Have you, a relative, or a close friend, ever worked for a financial institution, including for a bank, a credit union, a credit card company, or a payment processing company?

35. Have you, a relative, or a close friend, ever worked as or had interaction with an educator, principal, or administrator at a school that would affect your ability to be fair and impartial in this case?

PRIOR JURY SERVICE AND LAWSUITS

36. Have you ever been a juror in a criminal or civil case, or served on a grand jury, state or federal? If yes, what type of case was it? When was it? Did you deliberate, and did the jury reach a verdict (without stating what the verdict was)?

37. Have you, a relative, or a close friend, ever appeared as a witness at a deposition, trial, hearing, or a grand jury investigation?

38. Have you, a relative, or a close friend, ever been a plaintiff or a defendant in a state or federal court case, whether criminal or civil?

LAW ENFORCEMENT TECHNIQUES

39. The witnesses in this case may include law enforcement witnesses. Would any of you be more or less likely to believe a witness merely because he or she is a law enforcement officer?

40. Some of the evidence admitted at trial may come from searches performed by law enforcement officers. I instruct you that those searches were legal and that the evidence obtained from those searches is admissible in this case. Do any of you have strong feelings about searches conducted by law enforcement officers or the use of evidence obtained from searches that would affect your ability to be fair and impartial in this case? [*The Defendants object to this paragraph.*]

41. Some of the evidence in this trial may come from the use of undercover law enforcement officers. Do any of you have strong feelings about the use of undercover law enforcement officers that would affect your ability to be fair and impartial in this case?

42. Some of the witnesses called by the Government may have past criminal convictions, or may have been involved in some of the crimes charged in the indictment. Some of these witnesses have pleaded guilty and are testifying pursuant to cooperation agreements with the Government. Some of these witnesses may be hoping that their cooperation will result in a reduced sentence or some other benefit. Do any of you have strong feelings about the use of this type of witness that would affect your ability to be fair and impartial in this case?

43. Do any of you have any expectations about the types of evidence that the Government should or will present in this criminal trial, or in a criminal trial more generally? Would any of you be unable to follow my instructions that the Government is not required to use any particular investigative technique to uncover evidence of a crime?

44. You may hear evidence in this trial of criminal activity committed by people other than the Defendants. Those other individuals are not on trial here. You may not draw any inference, favorable or unfavorable, towards the Government or the trial Defendants from that fact. You also may not speculate as to the reason why other persons are not currently on trial. Is there any juror who cannot follow these instructions or who for this reason would have difficulty rendering a fair and impartial verdict? [*The Defendants object to this paragraph.*]

FUNCTION OF THE COURT AND JURY

45. The function of the jury is to decide questions of fact. As a juror, you are the sole judge of the facts. However, when it comes to the law, you are to take your instructions from the Court and you are bound by those instructions. At the conclusion of this case, your job will be to

determine whether or not each defendant is guilty as charged in the Indictment. Would any of you have any difficulty accepting and applying these legal principles?

46. Do any of you have any legal training, or any family members or close friends who are attorneys? If so, would this make it difficult for you to apply the law as I explain it?

47. A Defendant in a criminal case has the right not to testify. If any Defendant here does not testify, the jury may not draw any inference against that Defendant based on his decision. The fact that a Defendant chooses not to testify may not enter into the jury's deliberation at all. Would any of you have any difficulty accepting and applying this legal principle?

48. Under the law, a person is presumed to be innocent and cannot be found guilty of a crime charged in the indictment unless a jury, after having heard all of the evidence in the case, unanimously decides that the evidence proves that person's guilt beyond a reasonable doubt. Would any of you have difficulty accepting and applying this legal principle?

49. In a criminal case the burden of proof always remains with the Government. For the jury to return a verdict of guilty against a defendant, the Government must prove beyond a reasonable doubt that the defendant is guilty. A person charged with a crime has absolutely no burden to prove that he is not guilty. Would any of you have difficulty accepting and applying this legal principle?

50. You are required by law to make your decision based solely on the evidence or lack of evidence presented in court, and not on the basis of conjecture, suspicion, sympathy, or prejudice. Would any of you have difficulty accepting and applying this legal principle?

51. The question of punishment is for the Court alone to decide, and the possible punishment must not enter into your deliberations as to whether each defendant on trial here is guilty. Would any of you have difficulty accepting this legal principle?

52. Sympathy must not enter into the deliberations of the jurors as to guilt or non-guilt of each defendant, and only the evidence produced in Court may be used by you to determine the guilt or non-guilt of each defendant. Would any of you have difficulty accepting this legal principle?

53. Do any of you feel that even if the evidence established a Defendant's guilt beyond a reasonable doubt, you might not be able to render a guilty verdict for reasons unrelated to the law and the evidence?

54. Do you have any views about race or religion that would make it difficult for you to be fair and impartial?

55. Do you have any political, philosophical, or other beliefs that would make it difficult for you to be fair and impartial?

56. Do you believe if a person is charged with a crime, he or she probably did something wrong? Please explain. [*The Government objects to this paragraph.*]

57. Do you believe that innocent people can be wrongfully accused of crimes? [*The Government objects to this question.*]

58. Does the fact that these Defendants were indicted change your view of them? If yes, please explain. [*The Government objects to this paragraph.*]

59. Can you return a not guilty verdict even if the defense does not present any evidence or ask any questions? [*The Government objects to this question.*]

60. Can you return a not guilty verdict if the Government fails to prove the elements of the charged offenses beyond a reasonable doubt? [*The Government objects to this question.*]

61. If a Defendant testifies, would you be suspicious of his testimony simply because he is accused? [*The Government objects to this question.*]

GENERAL QUESTIONS

62. Do you have a problem with your hearing or vision, or any other medical problem that would prevent you from giving full attention to the evidence presented at trial?

63. Are you taking any medication that would prevent you from giving your full attention to the evidence presented at this trial?

64. Do you have any difficulty in reading or understanding English?

65. In these questions, I have tried to direct your attention to possible reasons why you might not be able to serve as a fair and impartial juror. Aside from the previous questions I have asked, does any juror have the slightest doubt in his or her own mind, for any reason whatsoever, about his or her ability to conscientiously, fairly, and impartially serve in this case and to render a true and just verdict without fear, favor, sympathy, or prejudice towards either the Government or the Defendants, and according to the law as I will explain you?

INDIVIDUAL JUROR'S BACKGROUND

66. What neighborhood do you live in? How long have you lived there?

67. Who are the members of your household?

68. What level of school did you reach?

69. If you are employed, where do you work?

70. How long have you worked at your present job? What did you do prior to your current job (or retirement/unemployment)?

71. If you are married or have a partner, is he or she employed? If yes, what does your spouse or partner do?

72. Do you have children? If yes, how old are they? If they are employed, what do they do?

73. What newspapers, magazines, Internet news sites, or blogs do you read?

74. How often do you use a computer for personal use, banking, business, or investing?

75. How often do you go on the Internet? What websites do you visit most frequently?

76. Do you ever purchase or sell anything on the Internet, and if so, how often?

77. What television shows do you watch?

78. What are your hobbies and activities?

INSTRUCTIONS FOLLOWING IMPANELING JURY

From this point until the time when you retire to deliberate your verdict, it is your duty not to discuss this case, and not to remain in the presence of other persons who may be discussing this case. It is your duty not to discuss this case among yourselves or with others, or to permit others to speak to you about this case. This rule about not discussing the case with others includes even with members of your own family, and your friends. If at any time during the course of this trial, any person attempts to talk to you or to communicate with you about this case, either in or out of the courthouse, you should immediately report such an attempt to me through my deputy clerk. In this regard, let me explain to you that the attorneys, the Defendants, and the witnesses in a case are not supposed to talk to jurors, not even to offer a friendly greeting. So if you happen to see any of them outside this courtroom, they will, and should, ignore you. Please do not take offense. They will be acting properly by doing so.

Dated: New York, New York
September 26, 2016

Respectfully submitted,

PREET BHARARA
United States Attorney for the
Southern District of New York

By: ________/s/______________________
Eun Young Choi
Daniel S. Noble
Won S. Shin
Assistant United States Attorneys

(*Signatures continued on next page*)

BAKER MARQUART LLP and
ROTHMAN, SCHNEIDER, SOLOWAY & STERN, LLP
Attorneys for Anthony R. Murgio

By: _______/s/____________________
Brian Klein
Robert Soloway

KAPLAN SCONZO & PARKER, P.A.
Attorneys for Defendant Michael J. Murgio

By: _______/s/____________________
Stuart Kaplan
Joseph Sconzo

CREIZMAN PLLC
Attorneys for Defendant Yuri Lebedev

By: _______/s/____________________
Eric Creizman
Melissa Madrigal

KROVATIN KLINGEMAN LLC
Attorneys for Defendant Trevon Gross

By: _______/s/____________________
Kristen Santillo